



May 11, 2016

U.S. Environmental Protection Agency  
Oil Pollution Act Enforcement Program  
1595 Wynkoop Street  
Denver, Co. 80202  
Attn: Darla Hohman

Re: National Response Center Number 1010721 and US EPA letter dated  
December 1, 2015

Dear Ms. Hohman:

Please tell Ms. Dean as well, we appreciated the constructive conversation on May 2<sup>nd</sup> related to the National Response Center Number 1010721 and the US EPA letter dated December 1, 2015.

In our May 2<sup>nd</sup> call, we understood your position to include the entire 65 barrels (as reported to the NRC) in calculating the proposed penalty of \$35,818. The language of Section 311(b)(3) reads "use the entire quantity discharged in violation" to define the Quantity. Our understanding of that language requires that the material hit "navigable waters of the United States" to in fact be in violation. We do not agree with the notion that the entire 65 barrels reached navigable waters. Specifically, our consultant's analysis would tell us a vastly reduced barrel count is involved.

We also believe that the Potential Environmental Impact is more appropriately categorized as a Minor Impact, not Moderate as you articulated. Analysis from the incident and subsequent remediation would lead us to the understanding that this incident did not "pose a significant threat to adjoining shoreline or navigable waters".

There was no visible residue or staining after our \$236,000 Mitigation of the incident, with the vast majority of the remediation occurring at the spill location, not the impacted area. As a result, we believe this reduces the degree of Culpability. Our counter proposal is agreeing to a violation of Section 311(b)(3), with Minor Impact and a penalty of \$7,403, which includes the CPI adjustment.

We welcome a call later this week to reach a prompt and appropriate resolution.

Sincerely,

Gabriel G. Claypool,  
President and COO